

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

Minh Nguyen,	:	
Plaintiff,	:	
	:	
v.	:	File No. 1:06-CV-80
	:	
Immigration and	:	
Naturalization Service	:	
Department,	:	
Defendant.	:	

ORDER
(Papers 8 and 15)

Plaintiff Minh Nguyen, a Vermont inmate proceeding *pro se*, brings this action claiming that he paid for his green card but never received it. Nguyen originally filed a small claims complaint in state court, seeking only the return of his \$110 fee. The government removed to this Court. Subsequently, with the assistance of fellow inmate Byron Martin, Nguyen filed an amended complaint claiming that he was harmed by the denial of his green card. Currently pending before the Court are Nguyen's motions to effect service by a sheriff (Papers 8 and 15), and to add Byron Martin as a plaintiff (Paper 15). For the reasons set forth below, these motions are GRANTED in part and DENIED in part.

Discussion

Nguyen contends in his first motion (Paper 8) that the government was "effectively served" via mail on May 16, 2006. In his second motion (Paper 15), Nguyen argues that the government's acknowledgment of receipt may be considered

completion of service. In the alternative, Nguyen asks the Court to order service by a sheriff.

Service of process upon a federal agency is governed by Fed. R. Civ. P. 4(i). There is no indication in this case that the government has been served in compliance with Rule 4(i). Therefore, the Court will not deem the government as having been served, and Nguyen's motions (Papers 8 and 15) are DENIED to the extent that they request such relief.

Because the Court will not order that the government has been effectively served, service of process must still be completed. In his state court filings, Nguyen submitted an application to proceed *in forma pauperis*. That motion was granted by the state court, and will be recognized here. Consequently, Nguyen is entitled to service of process pursuant to Fed. R. Civ. P. 4(c)(2) and 28 U.S.C. § 1915(d). To the extent that Nguyen's motions request court-ordered service, the motions are GRANTED and service shall be effected by the U.S. Marshal Service.

Finally, Nguyen moves the Court to add Byron Martin as a plaintiff. Martin is serving as Nguyen's "agent because [Nguyen] cannot read or write English." (Paper 8 at 1). There is no allegation that Martin has an actionable claim against the defendant. The motion to amend (Paper 15) is, therefore, DENIED.

Conclusion

For the reasons set forth above, Nguyen's motions to effect service (Paper 8 and 15) are GRANTED in part and DENIED in part. The government has not been served, and service shall be effected by the U.S. Marshal Service. Nguyen's motion to amend to add Byron Martin as a plaintiff (Paper 15) is DENIED.

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 26th day of July, 2006.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge